

**In re: BOBBY L. BROTHERTON d/b/a B&B CATTLE COMPANY.  
P&S Docket No. D-02-0017.  
Decision and Order.  
Filed November 18, 2002.**

**P&S – Default – Payment, failure to make full – Records, failure to maintain.**

David Richman, for Complainant.

Respondent, Pro se.

*Decision and Order issued by Jill S. Clifton, Administrative Law Judge.*

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*) by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Bobby L. Brotherton (hereinafter “Respondent”) willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*) The complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*), hereinafter “Rules of Practice,” were mailed to Respondent via certified mail on June 26, 2002. As indicated by the return date stamped on the return receipt card, the complaint was received by Respondent on July 2, 2002. Accompanying the complaint was a cover letter informing Respondent that an answer must be filed within twenty (20) days of service, and that failure to file an answer would constitute an admission of all of the material allegations in the complaint and a waiver of the right to an oral hearing.

Respondent has failed to file an answer within the time period prescribed by the Rules of Practice (7 C.F.R. § 1.136), and the material facts alleged in the complaint, which are admitted by Respondent’s failure to file an answer, are adopted and set forth herein as findings of fact.

This decision and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

#### **Findings of Fact**

1. Bobby L. Brotherton, the Respondent, is an individual doing business as B&B Cattle Company, whose mailing address is P.O. Box 1850, Palestine, Texas 75802-1850.
2. The Respondent is, and at all times material herein was:
  - (a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account;
  - (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.
3. As set forth in section II of the complaint, Respondent, in connection with

his operations subject to the Act, purchased livestock and failed to pay, when due, the full purchase price of such livestock.

4. As set forth in section III of the complaint, Respondent failed to keep such accounts, records, and memoranda which fully and correctly disclosed all transactions in his business as a dealer under the Act in that he failed to keep and maintain load make-up sheets, scale tickets evidencing weighing of livestock, adequate sales invoices and deposit slips.

### **Order**

By reason of the facts alleged in finding of fact 3, the Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228(b)).

By reason of the facts alleged in finding of fact 4, the Respondent has willfully violated sections 312(a) and 401 of the Act (7 U.S.C. §§ 213(a), 221).

Respondent Bobby L. Brotherton, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to pay, when due, the full purchase price of livestock;
2. Failing to keep such accounts, records, and memoranda which fully and correctly disclose all transactions in his business as a dealer under the Act, specifically including load make-up sheets, scale tickets evidencing weighing of livestock, adequate sales invoices and deposit slips.

Respondent Bobby L. Brotherton is hereby assessed a civil penalty in the amount of Eight Thousand Dollars (\$8,000.00).

This decision and order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, if it is not appealed to the Judicial Officer by a party to the proceeding within thirty (30) days, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became final December 30, 2002. - Editor]

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